

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JAMES COOKE,)	
)	
Petitioner,)	
)	
)	
v.)	No. 1:15-130-LPS
)	
)	
PERRY PHELPS, Commissioner,)	
Delaware Department of Correction; and)	
Dana METZGER, Warden, James T.)	
Vaughn Correctional Center at Smyrna,)	
)	
Respondents.)	

JOINT STATUS REPORT

The parties file this Joint Status Report pursuant to this Court's November 21, 2017 Order.

1. On February 9, 2015, the Capital Habeas Unit of the Federal Defender Office for the District of Delaware was appointed pursuant to 18 U.S.C. § 3599(a)(2) to represent Petitioner James Cooke for the purpose of preparing and filing a habeas corpus petition. Because of a conflict of interest, the District of Delaware filed a motion for substitution of counsel in this Court on August 16, 2017. This Court granted the motion on October 12, 2017, and substituted undersigned counsel.

2. On March 24, 2015, Mr. Cooke filed a Motion for Post-conviction Relief pursuant to Superior Court Criminal Rule 61 in the Delaware Superior Court.

3. During post-conviction proceedings, on August 2, 2016, the Delaware Supreme Court struck down 11 *Del. C.* § 4209 as unconstitutional in light of *Hurst v. Florida*. See *Rauf v.*

State, 145 A.3d 430 (Del. 2016). On December 15, 2016, the Delaware Supreme Court determined that *Rauf* applied retroactively to capital sentenced prisoners in Delaware. *Powell v. State*, 153 A.3d 69 (Del. 2016).

4. Mr. Cooke filed a Motion to Vacate Death Sentence on April 4, 2017, and an Amended Motion on April 12, 2017. The State filed its Response on April 13, 2017. Mr. Cooke filed his Reply to the State's Response on April 24, 2017.

5. On May 17, 2017, the Superior Court scheduled a sentencing hearing and denied all remaining issues raised in Mr. Cooke's Motion to Vacate.

6. On July 7, 2017, the Superior Court modified Mr. Cooke's death sentence to life without parole. A timely Notice of Appeal was filed on August 5, 2017.

7. On November 3, 2017, Mr. Cooke filed his Opening Brief in the Delaware Supreme Court.

8. Mr. Cooke's case remains pending before the Delaware Supreme Court.

Respectfully submitted,

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Dated: November 29, 2017